IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.7400 OF 2004

Mr S.R.Engineer, .. Petitioner.

Vs

1. Shri H.M.Desai and ors. .. Respondents

Mr A.K.Abhyankar i/b M/s Mulla & Mulla & CBC for the petitioner.

Mr N.Parekh, for the respondents.

CORAM : D.B.BHOSALE,J.

DATE : 9th September, 2004.

PC:

1. Heard the learned counsel for the parties.

2. This petition is directed against the order dated 3.8.2004 passed by the City Civil Court in Chamber Summons No.776 of 2004 in S.C.Suit No.7410 of 2000.

3. I heard the learned counsel appearing for the parties at length. Mr Abhyankar, learned counsel for the petitioner, fairly stated that he is not pressing deletion of the portion reproduced in paragraph 3 of the Draft Amendments Schedule which forms a part of paragraph 6 of the Plaint. Mr Parekh, learned counsel for respondent nos 1 to 4 opposed the prayer clause being introduced by way of an amendment vide paragraph 2 of the Draft Amendments Schedule. keeping in view the overall facts and circumstances of the case and

considering the contentions urged by the learned counsel for the parties I was inclined to allow this petition and when I so expressed, Mr Parekh fairly stated that for allowing the petition I need not record reasons. Mr Abhyankar, also did not press for recording reasons for allowing the amendment as per the Draft Amendments Schedule, except paragraph 3 thereof. In view of this, I pass the following order.

(i) The order dated 3.8.2004 passed in Chamber Summons No.776 of 2004 in S.C.Suit No.7410 of 2000 is quashed and set aside. The amendment in terms of the Draft Amendments Schedule, except paragraph 3 thereof, is allowed. The petitioner to carry out the amendment within two weeks from today and serve copy of the amended plaint on the other side immediately thereafter.

(ii) The City Civil Court shall endeavour to complete hearing of the suit within the timeframe granted by this Court vide order dated 23.1.2004 passed in A.O. No.365 of 2001.

. This petition is disposed of.

(D.B.BHOSALE, J.)